

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

RHINO-RACK USA LLC,

Plaintiff,

Case No. C24-301-MLP

V.

## ORDER

JOHN DOES 1-10,

## Defendants.

## I. INTRODUCTION

This matter is before the Court on Plaintiff Rhino-Rack USA LLC’s (“Rhino-Rack” or “Plaintiff”) renewed Motion for Leave to Issue Subpoena Prior to Rule 26(f) Conference (“Motion”). (Mot. (dkt. # 13).) Defendants have not yet appeared in this matter. Having reviewed Plaintiff’s briefing, the governing law, and the balance of the record, the Court GRANTS Plaintiff’s Motion (dkt. # 13).

## II. BACKGROUND

On March 5, 2024, Plaintiff brought the instant action against unidentified “John Does 1-10” (“Defendants”), who Plaintiff alleges are authorized sellers of Rhino-Rack products who made unauthorized sales. (Compl. (dkt. # 1) at ¶¶ 17-18.) In its amended complaint, Plaintiff

1 alleges Defendants breached their contracts with Rhino-Rack by making unauthorized sales to  
 2 resellers—including Amazon.com, Inc. (“Amazon”)—who then resold the products on websites  
 3 such as Amazon.com. (Am. Compl. at ¶¶ 17-21.)

4 Plaintiff seeks leave to serve discovery on Amazon for records to identify Defendants.  
 5 (Mot. at 2.) Plaintiff seeks information about Amazon storefronts that make unauthorized sales  
 6 of Rhino-Rack products on Amazon.com and Amazon’s own purchases of Rhino-Rack products.  
 7 (Motley Decl. (dkt. # 6) at ¶ 8, Ex. 1 (dkt. # 6-1) at 5, 7.)

### 8 III. DISCUSSION

#### 9 A. Legal Standard

10 Federal Rule of Civil Procedure 26(d) bars parties from seeking “discovery from any  
 11 source before the parties have conferred as required by Rule 26(f), except in a proceeding  
 12 exempted from initial disclosure under Rule 26(a)(1)(B), or when authorized by these rules, by  
 13 stipulation, or by court order.” Fed. R. Civ. P. 26(d)(1). In determining whether to permit  
 14 expedited discovery, courts in this jurisdiction require that the moving party demonstrate that  
 15 “good cause” exists to deviate from the standard pretrial schedule. *See Amazon.com, Inc. v.*  
 16 *Yong*, 2021 WL 1237863, at \*1 (W.D. Wash. Apr. 2, 2021) (adopting the “good cause” standard  
 17 for motions for expedited discovery and finding that plaintiffs demonstrated good cause for  
 18 expedited discovery); *see also Semitool, Inc. v. Tokyo Electron Am., Inc.*, 208 F.R.D. 273, 276  
 19 (N.D. Cal. 2002) (applying “the conventional standard of good cause in evaluating Plaintiff’s  
 20 request for expedited discovery”).

21 “Good cause may be found where the need for expedited discovery, in consideration of  
 22 the administration of justice, outweighs the prejudice to the responding party.” *Semitool*, 208  
 23 F.R.D. at 276. The Ninth Circuit has emphasized that diligence and the intent of the moving

1 party are the focus of the inquiry into good cause. *Johnson v. Mammoth Recreations, Inc.*, 975  
2 F.2d 604, 609 (9th Cir. 1992).

3 **B. Plaintiff's Efforts**

4 Plaintiff's counsel, Martha Brewer Motley, states in a declaration that Plaintiff has  
5 attempted to identify Defendants by investigating publicly available websites, such as secretary  
6 of state websites, and subscription investigative services such as LexisNexis and TLO. (Motley  
7 Decl. at ¶ 4.) Plaintiff has also corresponded with the Amazon Storefront Accounts. (*Id.*)  
8 Plaintiff's amended complaint states it has "undertaken significant efforts" including "reviewing  
9 sales records and corresponding with its distributors" as well. (Am. Compl. at ¶ 30.) Plaintiff  
10 further reports it has investigated its distributors in three different states and found no evidence  
11 that they are engaged in unauthorized sales. (*See id.* at ¶ 3; Compl. at ¶ 3.) Plaintiff contends it  
12 has "exhausted all other options for ascertaining the identities" of Defendants. (Mot. at 5.)

13 Plaintiff seeks to subpoena Amazon for: (1) documents containing personally-identifying  
14 information relating to nine Amazon storefront accounts; (2) contact information for any  
15 suppliers from whom Amazon has purchased Rhino-Rack products; and (3) any other  
16 documentation of Amazon's purchases of Rhino-Rack products. (Motley Decl., Ex. 1 at 5, 7.)

17 **C. Good Cause for Expedited Discovery**

18 Plaintiff alleges Defendants have gone to "great lengths to hide their identities to avoid  
19 being detected by brands and consumers." (Am. Compl. at ¶ 30.) The Court finds Defendants  
20 should not be afforded the benefit of anonymity in furtherance of their alleged reselling scheme.

21 Having considered the balance of factors, the Court concludes that Plaintiffs' intent in  
22 seeking expedited discovery justifies their request. Courts routinely allow early discovery for the  
23 limited purpose of identifying defendants on whom process could not otherwise be served. *See,*

1 *e.g., Music Grp. Macao Com. Offshore Ltd. v. John Does I-IX*, 2014 WL 11010724, at \*1-2  
 2 (W.D. Wash. July 18, 2014) (granting expedited discovery from Twitter, Inc. sufficient to  
 3 identify Doe defendants); *Digital Sin, Inc. v. Does 1-5698*, 2011 WL 5362068, at \*1-2 (N.D. Cal.  
 4 2011) (allowing early discovery from internet service providers to identify Doe defendants); *see*  
 5 *also Cottrell v. Unknown Corr. Officers*, 1-10, 230 F.3d 1366, at \*1 (9th Cir. 2000) (explaining  
 6 that “[t]he Federal Rules of Civil Procedure do not require that a district court dismiss unknown  
 7 defendants simply because the plaintiff is unaware of the identity of those defendants at the time  
 8 of the filing of the complaint.”). “Where the identity of the alleged defendant is not known prior  
 9 to the filing of a complaint, the plaintiff should be given an opportunity through discovery to  
 10 identify the unknown defendants, unless it is clear that discovery would not uncover the  
 11 identities, or that the complaint would be dismissed on other grounds.” *Wakefield v. Thompson*,  
 12 177 F.3d 1160, 1163 (9th Cir. 1999) (cleaned up) (quoting *Gillespie v. Civiletti*, 629 F.2d 637,  
 13 642 (9th Cir. 1980)).

14       Here, Plaintiff seeks expedited discovery to ascertain sufficient identifying information  
 15 about Defendants to name them in the complaint and effect service. Good cause exists where a  
 16 plaintiff has exhausted its means to identify the defendant through publicly available information  
 17 and has no other way to identify the bad actors involved in the scheme. *Facebook, Inc. v.*  
 18 *Various, Inc.*, 2011 WL 2437433, at \*3 (N.D. Cal. 2011) (“Courts in [the Ninth] Circuit permit  
 19 expedited discovery to identify unknown defendants usually when the plaintiff simultaneously  
 20 can identify no defendants and legitimately fears that information leading to their whereabouts  
 21 faces imminent destruction.”); *see also Semitool*, 208 F.R.D. at 277 (granting expedited  
 22 discovery where narrowly tailored requests will “substantially contribute to moving this case  
 23 forward”). Having reviewed the available record, it appears Plaintiff has exhausted available

1 means to identify Defendants. (Motley Decl. at ¶ 4; Am. Compl. at ¶¶ 28-30.) Consequently,  
2 Plaintiff has demonstrated that without expedited discovery, it will not be able to identify the  
3 individuals responsible for the alleged contract breach. Plaintiff's intent in seeking expedited  
4 discovery supports a finding of good cause.

5 Finally, the Court finds minimal prejudice to Defendants if Plaintiff is granted leave to  
6 conduct expedited discovery. Plaintiff has requested discovery directed at non-parties—not the  
7 Defendants—which courts recognize as “not imposing a significant burden upon defendants.”  
8 *Yong*, 2021 WL 1237863, at \*3. Plaintiff's discovery requests are narrowly tailored to seek  
9 information related only to the purpose of identifying Defendants responsible for the  
10 unauthorized sales. *See Qwest Commc 'ns Int'l, Inc.*, 213 F.R.D. at 420 (“In applying the ‘good  
11 cause’ standard under Rule 26(d), the court should consider the scope of the requested  
12 discovery.”). Accordingly, the Court grants Plaintiff's Motion.

#### 13 IV. CONCLUSION

14 For the foregoing reasons, the Court orders:

15 (1) Plaintiff's Motion (dkt. # 13) is GRANTED. Plaintiff is granted leave, prior to the  
16 Rule 26(f) conference, to serve Rule 45 subpoenas on Amazon.com, Inc. in substantially the  
17 same form as Exhibit 1 to the Motley Declaration (dkt. # 6-1).

18 (2) Plaintiff is ORDERED to, within 90 days of the date this Order is signed, file an  
19 amended complaint naming identified Defendants and file proof of service.

20 Dated this 3rd day of April, 2024.

21   
22

23 MICHELLE L. PETERSON  
United States Magistrate Judge